

duty to perform the act in respect of which the violation occurs.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413.)

#### PRIOR PROVISIONS

A prior section 5690, act Aug. 16, 1954, ch. 736, 68A Stat. 702, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

### PART V—PENALTIES APPLICABLE TO OCCUPATIONAL TAXES

Sec. 5691.	Penalties for nonpayment of special taxes.
[5692.	Repealed.]

#### PRIOR PROVISIONS

A prior part V consisted of sections 5691 to 5693, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

#### AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(a)(1)(B)(iii), Dec. 22, 1987, 101 Stat. 1330-448, struck out “relating to liquors” after “taxes” in item 5691.

1968—Pub. L. 90-618, title II, §206(b), Oct. 22, 1968, 82 Stat. 1235, struck out item 5692 “Penalties relating to posting of special tax stamps”.

### § 5691. Penalties for nonpayment of special taxes

#### (a) General

Any person who shall carry on a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes) and willfully fail to pay the special tax as required by law, shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

#### (b) Presumption in case of the sale of 20 wine gallons or more

For the purposes of this chapter, the sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer, as defined in section 5112(a).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413; amended Pub. L. 96-39, title VIII, §807(a)(60), July 26, 1979, 93 Stat. 290; Pub. L. 98-369, div. A, title IV, §451(b)(3), July 18, 1984, 98 Stat. 819; Pub. L. 100-203, title X, §10512(a)(1)(B)(i), (ii), Dec. 22, 1987, 101 Stat. 1330-447, 1330-448.)

#### PRIOR PROVISIONS

A prior section 5691, act Aug. 16, 1954, ch. 736, 68A Stat. 702, consisted of provisions similar to those comprising subsec. (a) of this section, prior to the general revision of this chapter by Pub. L. 85-859.

Prior section 5691 also related to forfeitures for nonpayment of special taxes relating to liquors. See sections 5607, 5613, 5615, 5661(a), 5671, 5673, 5676(4), 5683, 7301, and 7302 of this title.

#### AMENDMENTS

1987—Pub. L. 100-203 struck out “relating to liquors” after “of special taxes” in section catchline and sub-

stituted “a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes)” for “the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or limited retail dealer,” in subsec. (a).

1984—Subsec. (a). Pub. L. 98-369 substituted “or limited retail dealer” for “limited retail dealer, or manufacturer of stills”.

1979—Subsec. (a). Pub. L. 96-39 eliminated persons employed as rectifiers from the penalties imposed by this section.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as an Effective Date note under section 5081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

#### EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5125, 5148 of this title.

### [§ 5692. Repealed. Pub. L. 90-618, title II, §206(a), Oct. 22, 1968, 82 Stat. 1235]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1413, set forth a cross reference to section 7273(a), relating to penalties for failure to post special tax stamps.

A prior section 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 703, related to penalty relating to records of retail liquor dealers, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

A prior section 5693, act Aug. 16, 1954, ch. 736, 68A Stat. 703, consisted of provisions similar to those comprising section 5692, prior to the general revision of this chapter by Pub. L. 85-859.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1968, see section 207 of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

## CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Subchapter	Sec. <sup>1</sup>
A. Definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax .....	5701
B. Qualification requirements for manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors .....	5711
C. Operations by manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors .....	5721

<sup>1</sup> Section numbers editorially supplied.

D.	Occupational tax .....	5731
E.	Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors .....	5741
F.	General provisions .....	5751
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AMENDMENTS

1997—Pub. L. 105-33, title IX, § 9302(g)(3)(C), (h)(2)(D), Aug. 5, 1997, 111 Stat. 673, 674, amended chapter heading generally, substituting “TOBACCO PRODUCTS” for “CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO,” and inserted “and importers” after “manufacturers” in item for subchapter B.

1988—Pub. L. 100-647, title V, § 5061(c)(3), Nov. 10, 1988, 102 Stat. 3680, inserted “PIPE TOBACCO,” after “SMOKELESS TOBACCO,” in chapter heading.

1987—Pub. L. 100-203, title X, § 10512(f)(2), Dec. 22, 1987, 101 Stat. 1330-449, added item for subchapter D and redesignated items for former subchapters D, E, and F as E, F, and G, respectively.

1986—Pub. L. 99-272, title XIII, § 13202(b)(1), Apr. 7, 1986, 100 Stat. 311, inserted “SMOKELESS TOBACCO,” after “CIGARETTES,” in chapter heading.

1976—Pub. L. 94-455, title XXI, § 2128(d)(2), Oct. 4, 1976, 90 Stat. 1921, substituted “manufacturers and importers” for “manufacturers” in item for subchapter D.

1965—Pub. L. 89-44, title V, § 502(b)(1), (2), June 21, 1965, 79 Stat. 150, struck out “TOBACCO,” from chapter heading, reference to dealers in tobacco materials from heading of subchapter B, heading of subchapter D and redesignated subchapters E, F and G as D, E and F respectively, and struck out in heading of subchapter D (as redesignated) a reference to dealers in tobacco materials.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, substituted “manufacturers of tobacco products and cigarette papers and tubes, export warehouse proprietors, and” for “manufacturers of articles and” in heading of subchapters B and E, “manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors” for “manufacturers of articles” in heading of subchapter C, and “Penalties and forfeitures” for “Fines, penalties and forfeitures” in heading of subchapter G.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6103, 6207, 6423, 6808, 7328 of this title; title 6 section 531; title 18 section 2341; title 19 section 1681b.

**Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax**

Sec.	
5701.	Rate of tax.
5702.	Definitions.
5703.	Liability for tax and method of payment.
5704.	Exemption from tax.
5705.	Credit, refund, or allowance of tax.
5706.	Drawback of tax.
[5707.]	Repealed.]
5708.	Losses caused by disaster.

AMENDMENTS

1965—Pub. L. 89-44, title V, § 501(g), title VIII, § 808(c)(2), June 21, 1965, 79 Stat. 150, 165, struck out item 5707 “Floor stocks refund on cigarettes” and inserted “Credit” before “refund” in item 5705.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, added item 5708.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6651 of this title.

**§ 5701. Rate of tax**

**(a) Cigars**

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

**(1) Small cigars**

On cigars, weighing not more than 3 pounds per thousand, \$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001);

**(2) Large cigars**

On cigars weighing more than 3 pounds per thousand, a tax equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than \$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001).

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

**(b) Cigarettes**

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

**(1) Small cigarettes**

On cigarettes, weighing not more than 3 pounds per thousand, \$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001);

**(2) Large cigarettes**

On cigarettes, weighing more than 3 pounds per thousand, \$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001); except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

**(c) Cigarette papers**

On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001) for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

**(d) Cigarette tubes**

On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001) for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.